

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOHN BERNARD, WILLIAM BERNARD,
PAMELA MARTIN, individually and on
behalf of all others similarly situated,

Plaintiffs,

V.

BNY MELLON, N. A.,

Defendant.

2:18-CV-00783-RJC-CRE

United States District Judge Robert J. Colville

Chief United States Magistrate Judge
Cynthia Reed Eddy

ORDER ADOPTING REPORT AND RECOMMENDATION

On June 15, 2018, the above captioned case was filed in this Court and was referred to a magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules of Court for Magistrate Judges.

On April 29, 2020, Chief Magistrate Judge Cynthia Reed Eddy issued her Report and Recommendation (ECF No. 106) in which she recommended denial of the motion to dismiss the Second Amended Complaint filed by Defendant BNY Mellon, National Association (“BNY Mellon”) (ECF No. 74). On May 13, 2020, Defendant BNY Mellon filed its objections (ECF No. 107), and on May 27, 2020, plaintiffs filed a brief in opposition to BNY Mellon’s Objections. (ECF No. 108).

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, objections and responses thereto, the Court adopts the

Report and Recommendation (ECF No. 106) as the Opinion of the Court and accepts the magistrate's recommendation.¹

Accordingly,

AND NOW, this 4th day of June, 2020, BNY Mellon's Motion to Dismiss (ECF No. 74) is **HEREBY DENIED**.

s/ Robert J. Colville
Robert J. Colville
United States District Judge

cc: all ECF registered counsel

¹ We decline to grant BNY Mellon's request for clarification that it may submit parole evidence to resolve any ambiguity contained in the Van Valzah trust agreement and defer said issue to the sound discretion of the Chief Magistrate Judge for further consideration, if appropriate.